IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PIL WRIT PETITION NO. 2924 OF 2005

Akhil Bhartiya Maratha Mahasangh & Ors.] .. Petitioner

Versus

Union of India & Anr.] .. Respondents

Mr. V.P. Patil for the petitioner.

Mr. N.P. Pandit, AGP, for the respondent No 2-State.

CORAM: R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED: 12TH JANUARY, 2006

P.C. :

. Heard Mr.V.P. Patil, the learned counsel for the petitioners.

2. Akhil Bhartiya Maratha Mahasangh (petitioner No.1) is a registered body. It claims to be looking after the rights and welfare of the Maratha community. Petitioner No.2 is the President of the Mahasangh and also an Advocate. Petitioner No.3 is the President of

Mumbai Pradesh Unit of the Mahasangh. By means of this Writ Petition, the petitioners pray for issuance of Writ of Mandamus for declaration that Shri S.M. Krishna, the present Governor of Maharashtra should be directed not to continue as the Governor of the State of Maharashtra and for direction to the Union of India to transfer Shri S.M. Krishna to any other State. The petitioners have also prayed for issuance of guidelines to the Union of India for not appointing interested persons from adjoining States as the Governor and not to continue a Governor of any State beyond the age of 65 years. It is also prayed that the respondent Nos.1 and 2 should discontinue additional residence of the Governor at Pune with immediate effect.

3. We are afraid, the Writ Petition, being wholly misconceived, does not deserve to be entertained. Merely because Shri S.M. Krishna is a former Chief Minister of Karnataka and that the State of Karnataka has some disputes with the State of Maharashtra concerning the border between the two States, Shri S.M. Krishna does not become disqualified from holding the Office of the Governor.

4. Article 155 of the Constitution of India provides that the Governor of a State shall be appointed

by the President by Warrant under his hand and seal. Article 156 makes the provision for a term of office of the Governor. The qualifications for appointment as Governor are provided in Article 157. This Article is couched in negative language. Accordingly, no person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of 35 years. It is not in dispute that Shri S.M. Krishna fulfills both the qualifications as provided in Article 157. Article 159 provides that every Governor and every person discharging the functions of the Governor shall, before entering upon his Office, make and subscribe in the presence of the Chief Justice of the High Court in the jurisdiction in relation to the State. Shri S.M. Krishna has taken oath as provided in Article 159. Shri S.M. Krishna is qualified to be appointed as the Governor of the State of Maharashtra and we find no impendiment in his continuing as such for the term provided in Article 156 of the Constitution of India.

5. Since the Constitution of India does not provide that the Governor shall not continue beyond a particular age, the High Court does not possess any power to legislate on the retirement age of the Governor.

6. The Governor's (Emoluments, allowances and privileges) Act, 1982, inter-alia provide for the official residences of the Governors. As regards the State of Maharashtra, the said Act specifies the official residence of the Governor at Pune in addition to the official residences at Nagpur and Mumbai. In this backdrop of statutory provision, the petitioners prayer for discontinuation of Pune residence for the Governor of the State of Maharashtra is misconceived.

7. For all these reasons, we are satisfied that the Writ Petition is devoid of any substance and deserves to be dismissed at the threshold. We order accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[ANOOP V. MOHTA, J.]

[srpasha@hc]